

No. 87-694

2

Supreme Court, U.S.  
FILED  
DEC 1 1987  
JOSEPH F. SPANIOLO, JR.  
CLERK

**In the Supreme Court of the United States**

OCTOBER TERM, 1987

TUNYA REGINERA POITIER, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

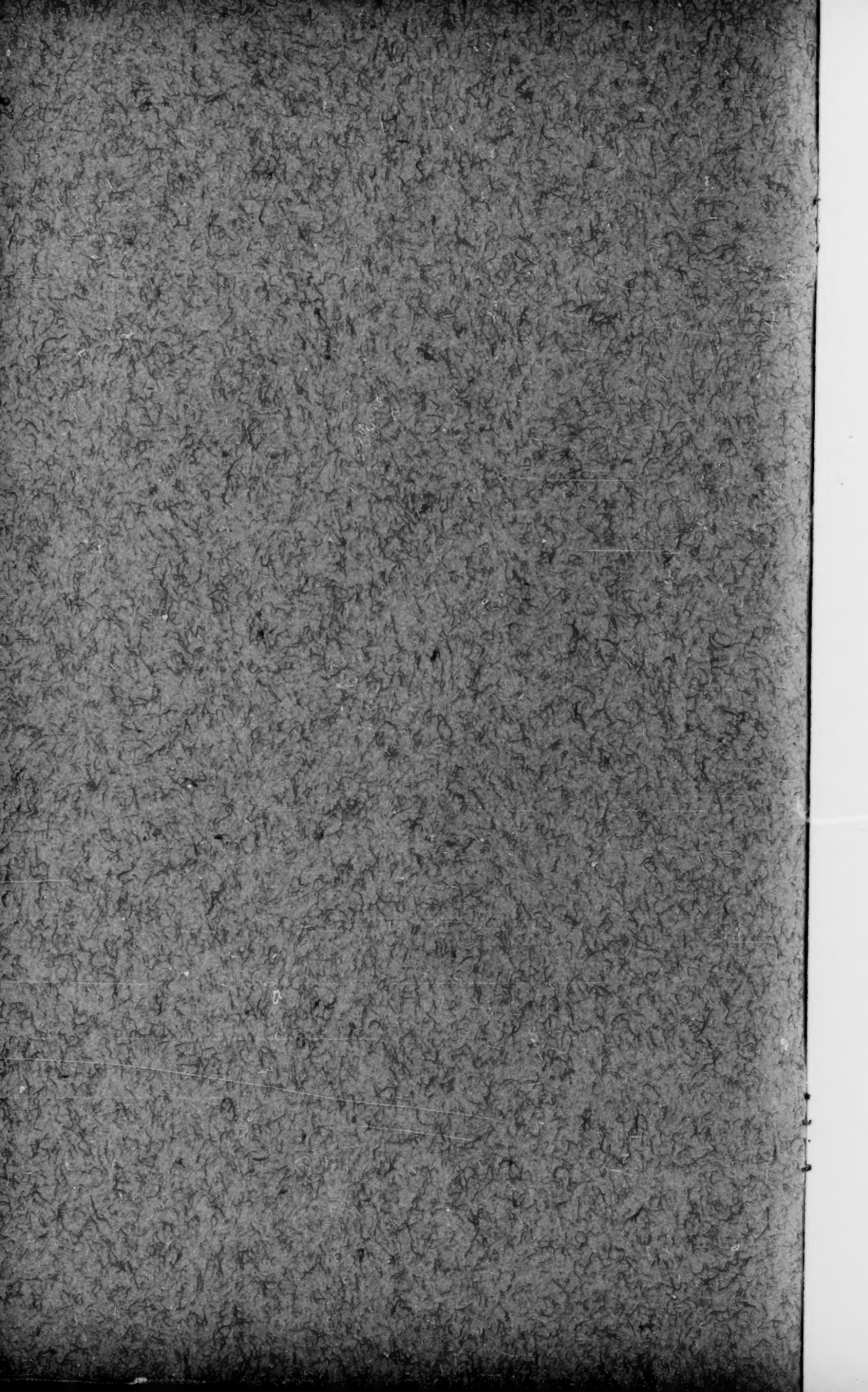
CHARLES FRIED  
*Solicitor General*  
*Department of Justice*  
*Washington, D.C. 20530*  
*(202) 633-2217*

JOSEPH F. SPANIOLO, JR.  
CLERK

DEC 1 1987

Supreme Court, U.S.  
FILED

4 pp



# In the Supreme Court of the United States

OCTOBER TERM, 1987

---

No. 87-694

TUNYA REGINERA POITIER, PETITIONER

v.

UNITED STATES OF AMERICA

---

*ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT*

---

## MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

---

Petitioner contends that the court of appeals erred in reversing an order suppressing evidence that was obtained as a result of a seizure of cocaine from petitioner at an airport.

On January 22, 1986, petitioner was indicted by a federal grand jury sitting in the Eastern District of Arkansas. She was charged with conspiring to distribute cocaine and to possess cocaine with intent to distribute it, in violation of 21 U.S.C. 846, and with possessing cocaine with intent to distribute it, in violation of 21 U.S.C. (& Supp III) 841(b)(1)(B). The cocaine was seized from her by a police officer and Drug Enforcement Agents following an encounter at the Little Rock, Arkansas, airport. Petitioner moved to suppress both the cocaine and the inculpatory statements she subsequently made to law enforcement officers.

The district court granted the motion. The court concluded that the officers' initial contact with petitioner constituted an investigative *Terry* stop and that it was not supported by reasonable suspicion. See *Terry v. Ohio*, 392 U.S. 1 (1968). The court found that when the officers

showed their identification and gestured to petitioner to move to the waiting area, a person in petitioner's position would not have felt free to leave without answering questions. The court also characterized the stop as an arrest from its inception (Pet. App. 1-10).

The court of appeals reversed (Pet. App. 11-27). The court concluded that the initial contact between the officers and petitioner was consensual and involved no coercion or restraint of liberty. The court further found that, after petitioner and her companion gave inconsistent information, the encounter turned into a *Terry* stop when the agents told petitioner that they suspected her of carrying drugs and gave her *Miranda* warnings. Nonetheless, the court held, the agents had sufficient grounds for the stop, and the stop was properly limited in scope and duration (*ibid.*).

Petitioner contends (Pet. 12-20) that she was detained without reasonable suspicion after the officers encountered her at the airport. Whatever the merits of petitioner's contentions, they are not presently ripe for review by this Court. The court of appeals' decision places petitioner in precisely the same position she would have occupied if the district court had denied her motion to suppress. If petitioner is acquitted following a trial on the merits, her contentions will be moot. If, on the other hand, petitioner is convicted and her conviction is affirmed on appeal, she will then be able to present her contentions to this Court, together with any other claims she may have, in a petition for a writ of certiorari seeking review of a final judgment against her. Accordingly, review by this Court of the court of appeals' decision would be premature at this time.\*

---

\* Because this case is interlocutory, we are not responding on the merits to the questions presented by the petition. We will file a response on the merits if the Court requests.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

CHARLES FRIED  
*Solicitor General*

DECEMBER 1987